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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,586	10/29/2003	Craig M. Schaefer	7247.00002	7681

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EXAMINER

FERNSTROM, KURT

ART UNIT PAPER NUMBER

3712

DATE MAILED: 06/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/697,586

Applicant(s)

SCHAEFER ET AL.

Examiner

Kurt Fernstrom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/29/03</u> | 6) <input type="checkbox"/> Other: ____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 8 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 3 and 8, it is not clear how both low sums and high sums would win a single wager. With respect to claim 11, it is not clear what "conservate", "aggressive" and "high risk" play would be. The specification does not provide a specific description that would enable one of ordinary skill to know how the terms are being defined, or what specific game methods are encompassed by the terms.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 13, 15, 17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Perrie (US 6,746,016). Perrie discloses in the Figures and in column 3,

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lines 40-60 a method of playing a wagering game comprising accepting a player wager, allowing the player to roll five six-sided dice, allowing the player to hold some of the dice and re-roll the other dice, and resolving the wager based on the outcome of the rolls.

Column 4, lines 37-40 disclose that in one embodiment the wager is resolved based on the sum of the dice. With respect to claim 13, Figure 2 and column 4, line 65 to column 5, line 10 of Perrie disclose an apparatus for playing the game comprising a table 200, dice 20 and a wagering area 250. With respect to claim 15, Perrie discloses in Figure 4 and in column 9, lines 41-58 an electronic gaming machine for playing the game having a processor, a player interface and a display as claimed. With respect to claim 17, Perrie discloses in Tables 1-4, interspersed throughout the specification, various pay table setting forth payouts. With respect to claim 19, Perrie discloses in column 22, lines 57-65 that a network of computer terminals may be provided for playing the game.

Claims 1, 3, 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Tarantino. Tarantino discloses in the Figures and in column 5, line 36 to column 10, line 65 a method of playing a wagering game comprising accepting a player wager, allowing the player to roll five six-sided dice, allowing the player to hold some of the dice and re-roll the other dice, and resolving the wager based on the outcome of the rolls. Column 10, line 36 discloses that in one embodiment the wager is resolved based on the sum of the dice. With respect to claim 3, Tarantino discloses in column 15, lines 13-16 that the player wins via both low dice sums and high dice sums. With respect to claim 5, Tarantino discloses in several places, for example in column 15, lines 6-16 that a player may advance to one or more progressive jackpot rounds.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4, 7-11, 14 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Perrie. Perrie discloses all of the limitations of claims 2 and 7 with the exception of the bonus round in response to the dice having identical values. However, bonus rounds are a well known feature of wagering games, and are disclosed in Perrie. It is also known to provide some sort of award to a player when all dice have the same number, as is also disclosed by Perrie. Providing a bonus round based on the dice having the same value is obvious variation on the disclosed methods of Perrie. With respect to claims 4, 10 and 11, it is known in gaming devices and methods to allow a player to vary the amount of the bet, as disclosed for example in column 7, lines 61-65 of Perrie. This amounts to selecting one of multiple pay tables, where the amount bet is related to the amount of risk taken. With respect to claims 8, 9, 14 and 18, Perrie discloses in column 14, lines 34-38 that specific ranges of results can be used to determine payouts. The precise ranges claimed by applicant are obvious in light of the disclosure of Perrie.

Claims 2, 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tarantino. Tarantino discloses all of the limitations of the claims with the exception of the bonus round in response to the dice having identical values. However, bonus

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rounds are a well known feature of wagering games. It is also known to provide some sort of award to a player when all dice have the same number, as is also disclosed by Tarantino. Providing a bonus round based on the dice having the same value is obvious variation on the disclosed methods of Tarantino.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrie in view of Bridgeman. Perrie discloses all of the limitations of the claim with the exception of the touchscreen. This feature is well known, however, as disclosed for example in column 9, lines 32-34 of Bridgeman. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Perrie by providing touchscreen technology for the purpose of making it easier for a user to input information to the device.

Allowable Subject Matter

Claim 20 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest a method having all of the limitations of claim 20. In particular, there is no suggestion of a game where the player holds a selected number of dice, transfers the held dice to each of a plurality of groups, and then rerolls the other dice in each of the other groups to arrive at different results for each of the groups. While it is known to bet a certain number of credits in each game or betting repeated on a game, thus betting on "groups" of dice, the claimed method is substantially different, in that a single set of held dice is transferred to a plurality of

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groups. This allows for a plurality of wagering results, all based on the same set of held dice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McGinnis and Webb disclose dice wagering games.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (703) 305-0303. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF
June 17, 2004

Kurt Fernstrom
Kurt Fernstrom